

REMARKS

Claims 17-29 are currently pending in this application. Claims 1-16 have been cancelled. The Specification has been amended to correct minor typographical errors and to address drawing objections. No new matter has been added by the amendments to the Specification. Fig. 31 has been amended to correct an element number that was inadvertently duplicated. Claims 17-29 have been added based upon the subject matter of the original claims, drawings and Specification in order to more particularly point out and distinctly claim the invention. Accordingly, no new matter has been added.

Drawing Objections

The Examiner has objected to the drawings under 37 C.F.R. § 1.84 because element numbers “232” in the Specification and “234” in Fig. 30 have both been used to designate a glass; element “254” in Fig. 31 has been used to designate both a bus and a program memory; and element numbers 30 (Fig. 2), 54 (Fig. 3) and 60 (Fig. 3) are not mentioned in the description.

The Specification has been amended to change element number “232”, referring to a glass, to element number “234” so as to correctly correspond with Fig. 30. (See page 102, line 7).

The Specification has been amended to change “a bus 254” to “a bus 253”. (See page 102, line 19). Fig. 31 has been amended to change the first instance of element number “254” pointing to the bus to element number “253”.

The Specification has been amended to insert element number “30” after “a processing unit (hereinafter referred to as “PU”)”. (See page 58, lines 1-2).

Element number “54” designates “a bus 54” in the originally submitted Specification at page 58, lines 19-20.

Element number “60” designates “a program memory 60” in the originally submitted Specification at page 58, line 23.

In view of the foregoing amendments to the Specification and drawings and clarifying remarks, Applicants respectfully submit that the objection to the drawings under 37 C.F.R. § 1.84 has been overcome and request that the object be withdrawn.

Claim Objections

Claims 1-16 have been objected to because of minor grammatical errors.

Claims 1-16 have been canceled, and therefore, the objection to claims 1-16 has effectively been rendered moot.

Applicants submit that new claims 17-29 have been written to address the Examiner's informality objection.

Claim Rejections Under 35 U.S.C. § 102(e)

Claims 1-2 and 4-16 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2001/003439 A1 ("Jacoby *et al.*", hereinafter "Jacoby").

Claims 1-2 and 4-16 have been canceled, and therefore, the rejection under 35 U.S.C. § 102(e) with respect to claims 1-2 and 4-16 has been effectively rendered moot.

Claim Rejections Under 35 U.S.C. § 103(a)

Claim 3 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Jacoby and further in view of U.S. Patent Application Publication No. 2002/0029232 A1 ("Bobrow *et al.*", hereinafter "Bobrow").

Claim 3 has been canceled, and therefore, the rejection under 35 U.S.C. § 103(a) with respect to claim 3 has been effectively rendered moot.

New Claims

Support for new claim 17 can be found in, among other places, original claims 1 and 5; Figs. 3-7; and in the corresponding supporting description in the Specification.

Support for new claim 18 can be found in, among other places, original claims 4 and 5; Fig. 12; and in the corresponding supporting description in the Specification.

Support for new claim 19 can be found in, among other places, original claim 7; Figs. 14-15; and in the corresponding supporting description in the Specification.

Support for new claim 20 can be found in, among other places, original claim 10; Figs. 3-4, 6 and 16; and in the corresponding supporting description in the Specification.

Support for new claim 21 can be found in, among other places, original claim 11; Fig. 16; and in the corresponding supporting description in the Specification.

Support for new claim 22 can be found in, among other places, original claim 5; Figs. 8-9; and in the corresponding supporting description in the Specification.

Support for new claim 23 can be found in, among other places, original claim 6; Figs. 8 and 11-12; and in the corresponding supporting description in the Specification.

Support for new claim 24 can be found in, among other places, original claim 8; Fig. 32; and in the corresponding supporting description in the Specification.

Support for new claim 25 can be found in, among other places, original claim 9; Figs. 1 and 3-4; and in the corresponding supporting description in the Specification.

Support for new claim 26 can be found in, among other places, original claim 12; Figs. 3-6 and 17; and in the corresponding supporting description in the Specification.

Support for new claim 27 can be found in, among other places, original claim 6; Figs. 6-7; and in the corresponding supporting description in the Specification.

Support for new claim 28 can be found in, among other places, original claims 13 and 15; Fig. 3; and in the corresponding supporting description in the Specification.

Support for new claim 29 can be found in, among other places, original claims 14 and 16; Fig. 2; and in the corresponding supporting description in the Specification.

Jacoby

Jacoby discloses a computer-assisted method for providing personalized product information to a user by using surveys to collect detailed product information. In one embodiment, Jacoby discloses applying aggregated, detailed customer satisfaction data to evaluate the performance of consumer products and/or services. In another embodiment, Jacoby discloses exploiting interactive capabilities of the Internet to offer personalized queries of its database of information. The “personalized database queries” allow users to view user ratings for people with similar profiles in terms of demographics, disease severity, medical history and the like (¶ [0048]).

A survey group including one or more members is defined and a personal information set relating to each member of the survey group is stored. The personal information set includes at least one variable relating to a personal characteristic of a member. A query set is sent over a computer network to the survey group. The query set comprises at least one question relating to the survey group’s use of a product. Responses to the query set are received, over the computer network, from members of the survey group, and the responses are sorted based on the personal information set into a result set. The result set is stored at a central location. A user sends an inquiry over the computer network to the central location, wherein the inquiry relating to information is included in the query set. Data is selected from the result set based on at least one variable relating to a personal characteristic of the user. The selected data is then provided to the user. As each set of questions is completed and submitted to the system, the information is aggregated with information that has been provided by other users, both in response to the particular survey and in some instances in response to other surveys. Self reported ratings from thousands of consumers are aggregated in a dynamic, longitudinal, proprietary database. As users indicate other treatments that they have used and their corresponding effects (or lack thereof) on their symptoms, future users who take the same quiz are given additional options/questions that reflect these additional experiences. The system can be programmed to reject multiple submissions from a particular email address. In another embodiment, trained personnel (such as statisticians and/or health care professionals) can review, analyze, or edit the results.

Bobrow

Bobrow discloses a programming interface for a document search system that enables a user to dynamically specify features of documents recorded in a corpus of documents. The document images are sorted by segmenting each document image recorded in the memory into a set of layout objects. Each layout object in the set of layout objects of each document is one of a plurality of layout object types, and each of the plurality of layout object types identify a structural element of a document image. A feature of a document is selected from a set of features, where each of the features in the set of features identify a selected group of layout objects in certain of the sets of layout objects recorded in the memory. A set of image segments is assembled in the memory. Each image segment in the set of image segments identifies those layout objects of a document image stored in the memory that form the selected feature. The assembled image segments are sorted into clusters in the memory, where each cluster defines a grouping of image segments that have similar layout objects forming the selected feature.

Claim 17

Claim 17 recites, *inter alia*:

calculating means for calculating a score of each of the plurality of ranks based on a selection result obtained by the selecting means and according to a predetermined point allocation which defines how many points are allocated to each one of the plurality of ranks when selected;

summing means for summing a plurality of scores obtained by the calculating means with regard to all of the plurality of items, for each of the plurality of ranks, thereby determining the user's constitution as one of a predetermined plurality of types based on a plurality of sums respectively obtained by the summing means for the plurality of ranks and according to a set of predetermined determination rules, the summing means includes:

(a) provisional determining means for obtaining the plurality of sums based on data indicative of the user's answers to a first portion of the

questions displayed on the screen and for provisionally determining the user's constitution as at least one of the plurality of types based on the obtained plurality of sums and according to a first predetermined determination rule; and

(b) final determining means for finally determining the user's constitution as one of the provisionally determined at least one type based on data indicative of the user's answers to a second portion of the questions displayed on the screen and according to a second predetermined determination rule....[underline emphasis added]

Jacoby fails to disclose or suggest calculating means for calculating a score of each of a plurality of ranks based on a selection result obtained by a selecting means and according to a predetermined point allocation and summing means for summing a plurality of scores to determine the user's constitution as one of a predetermined plurality of types based on a plurality of sums respectively obtained by the summing means for the plurality of ranks and according to a set of predetermined determination rules.

Generally, the present invention is directed to how to process a variety of different sets of information on a particular individual in order to determine that individual's constitution, i.e., the physical or medical nature of the particular individual.

The claimed invention includes statistically processing a variety of different kinds of variables on the same individual, by employing a statistical approach, to determine the constitution of that particular individual. The statistical approach includes:

a classification of each item into ranks in a unique manner;

a calculation of scores of ranks for each item;

a summing up of the scores of all the items for each rank; and

a determination of the constitution of the individual using the sums for the respective ranks according to a determination rule.

A claim is anticipated under 35 U.S.C. § 102 only if each and every element as set forth in the claim is found expressly or inherently described in a single prior art reference and the elements must be arranged as required in the claim. M.P.E.P. § 2131.

In order to establish *prima facie* obviousness of a claimed invention, all the claimed limitations must be taught or suggested by the prior art. M.P.E.P. § 2143.03.

Jacoby merely teaches how to deliver a variety of information sets relating to the same product which many users actually used and experienced and which are collected by surveys of the users, but fails to teach how to identify only one of the collected information sets which is likely to be the most suitable to a particular user who attempts to use the same product. While Jacoby discloses exploiting interactive capabilities of the Internet to offer personalized queries of its database of information which allow users to view user ratings for people with similar profiles in terms of demographics, disease severity, medical history and the like (¶ [0048]), there is no mention of ranking, by the system, of the answers to calculate the constitution of the current user.

By contrast, the claimed invention in the present application is directed to an apparatus that identifies only one of a plurality of possible constitution types which is likely to be the most correct to the particular user by assigning and calculating ranks and summing those ranks to determine the user's constitution.

Bobrow fails to compensate for the deficiencies of Jacoby. Bobrow discloses a system for sorting document images by shape and comparison. While the images are sorted into "meaningful groupings of objects that have similarities," the sorting is based on image attributes not calculated scores and a set of predefined determination rules. Bobrow fails to disclose or suggest means for calculating a score of each of a plurality of ranks based on a selection result obtained by (user operated) selecting means and according to a predetermined point allocation. Bobrow also fails to disclose or suggest summing means for summing the plurality of scores to determine a user's constitution.

Thus, even if there were sufficient motivation to combine Jacoby and Bobrow, the combined Jacoby and Bobrow system would lack calculating means for calculating a score of each of a plurality of ranks based on a selection result obtained by a selecting means and

according to a predetermined point allocation and summing means for summing a plurality of scores to determine the user's constitution as one of a predetermined plurality of types based on a plurality of sums respectively obtained by the summing means for the plurality of ranks and according to a set of predetermined determination rules.

Accordingly, Jacoby and Bobrow, taken alone or together fail to disclose or suggest the subject matter of new independent claim 17, and therefore, new claim 17 is patentable in view of Jacoby and/or Bobrow.

New claims 18-25 depend from independent claim 17 and are patentable at least for the reasons mentioned above with respect to independent claim 17 and because they each recite additional patentable features.

Claim 26

Claim 26 also includes nearly identical calculating and summing means, and therefore, new independent claim 26 is patentable for all of the reasons cited above with respect to claim 17.

Claim 27

Claim 27 recites, *inter alia*:

calculating a score of each of the plurality of ranks based on a selection result obtained by the selecting step and according to a predetermined point allocation which defines how many points are allocated to each one of the plurality of ranks when selected;

summing a plurality of scores obtained by the calculating step with regard to all of the plurality of items, for each of the plurality of ranks, thereby determining the user's constitution as one of a predetermined plurality of types based on a plurality of sums respectively obtained by the summing step for the plurality of ranks and according to a set of predetermined determination rules, the summing step including:

(a) a provisional determining step of obtaining the plurality of sums based on data indicative of the user's answers to a first portion of the questions displayed on the screen; and of provisionally determining the user's constitution as at least one of the plurality of types based on the obtained plurality of sums and according to a first predetermined determination rule; and

(b) a final determining step of finally determining the user's constitution as one of the provisionally determined at least one type based on data indicative of the user's answers to a second portion of the questions displayed on the screen and according to a second predetermined determination rule....[underline emphasis added]

Similar to claim 17, Jacoby and Bobrow, taken alone or in combination, fail to disclose or suggest a computer-implemented method of determining a constitution of a user by calculating a score of each of the plurality of ranks based on a selection result obtained by the selecting step and according to a predetermined point allocation and summing a plurality of scores obtained by the calculating step with regard to all of the plurality of items to determining the user's constitution as one of a predetermined plurality of types based on a plurality of sums respectively obtained by the summing step for the plurality of ranks and according to a set of predetermined determination rules.

Therefore, new independent claim 27 is also patentable in view of Jacoby and/or Bobrow.

New claims 28-29 depend from independent claim 27 and are patentable at least for the reasons mentioned above with respect to independent claim 27 and because they each recite additional patentable features.

CONCLUSION

In view of the foregoing Amendment and Remarks, it is respectfully submitted that the present application, including claims 17-29, is in condition of allowance and such action is respectfully requested.

Respectfully submitted,

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Enclosures: Petition for One Month Extension of Time

Amendments to the Drawings:

The attached sheet of drawings (31/44) has been amended to properly label Fig. 31. In particular, Fig. 31 has been amended to change the first instance of element number “254” pointing to a bus to element number “253.”

Attachment: Replacement Sheet (31/44)